

CITY OF SAN DIEGO

Proposition D

(This proposition will appear on the ballot in the following form.)

PROP D

MAKING ALCOHOL CONSUMPTION UNLAWFUL AT CITY BEACHES, MISSION BAY PARK, AND COASTAL PARKS. Shall the People of the City of San Diego amend San Diego Municipal Code section 56.54 to make the consumption of alcohol unlawful at City beaches, Mission Bay Park, and coastal parks?

This proposition requires approval by a simple majority (over 50%) of the voters voting on the proposition.

Full text of this proposition follows the arguments.

OFFICIAL TITLE AND SUMMARY PREPARED BY THE CITY ATTORNEY

Title

ALCOHOL CONSUMPTION AT CITY BEACHES, MISSION BAY PARK, AND COASTAL PARKS

Summary

Shall the People of the City of San Diego amend San Diego Municipal Code section 56.54 to make the consumption of alcohol unlawful 24 hours a day at City beaches, Mission Bay Park, and all coastal parks?

City Attorney's Impartial Analysis

Background

Since 1977, it has been unlawful to consume alcohol in certain City parks and areas and on City beaches for various time periods (12, 16, or 24 hours) depending on location. The San Diego City Council has modified the law on many occasions to adjust time periods or to change locations subject to the alcohol bans.

Prior to January 14, 2008, drinking alcohol was unlawful at most City beaches, adjacent parks and sidewalks, and all land areas of Mission Bay Park for 16 hours a day (8:00 p.m. to noon).

Certain other beaches, coastal parks and areas were subject to either a 12-hour (8:00 p.m. to 8:00 a.m.) ban or a 24-hour ban on alcohol consumption. Alcohol consumption was permitted for special events, in sidewalk cafés, or on property leased from the City.

On January 14, 2008, a one-year 24-hour ban on alcohol consumption went into effect. The ban, approved by the City Council, prohibits alcohol consumption 24 hours a day on all City beaches, including Mission Bay Park and coastal parks south of Tourmaline Surfing Park. The temporary ban allows alcohol consumption on Mission Bay Golf Course, for special events, in sidewalk cafés, and on City-leased property. Other, mostly non-coastal, parks and areas remain subject to existing 12-, 16-, or 24-hour bans.

City Attorney's Impartial Analysis (Continued)

Proposal

This proposition, which would be effective January 15, 2009, asks voters to continue and to expand the temporary 24-hour ban on alcohol consumption at beaches, Mission Bay Park and coastal parks. The proposition makes alcohol consumption unlawful 24 hours a day at Mission Bay Park, all City public beaches, sidewalks, boardwalks, alleys, plazas, piers, jetties, seawalls, and all coastal access, view point and bluff rights-of-way. The proposition also lists the coastal public parks that will be included, some of which are new to a 24-hour ban. Alcohol consumption would be permitted at the Mission Bay and Torrey Pines golf courses; special events; sidewalk cafés; or by a City lease.

If voters approve the amendments described in the proposition, any future effort to repeal or modify these amendments will require voter approval. Voter approval of this proposition will not affect existing laws that regulate alcohol consumption in other parks and areas, so long as the existing laws do not conflict with the voter-enacted amendments.

If voters do not approve the proposition, the one-year temporary ban remains in place. When it expires, the law regulating alcohol consumption in Mission Bay Park, coastal parks and beaches will return to that existing before the one-year temporary ban. The law would remain subject to modification by the Council, or by voters in future elections. Voters may obtain a copy of the law in effect before January 14, 2008 and the one-year temporary alcohol ban from the San Diego City Clerk.

FISCAL IMPACT STATEMENT

- Fiscal Impact is unquantifiable at this time, due to the lack of applicable data and potential impacts such as changes in cost of enforcement levels, public safety & emergency response costs, sales tax and transient occupancy tax revenues, and other possible unknown consequences.
- A violation of alcohol ban can be charged and prosecuted as either an infraction or misdemeanor.

Infractions: Any person violating the section of the Municipal Code will be fined by either \$250 for first occurrence or \$500 for a second or any subsequent conviction within a period of one year.

Misdemeanors: Any person violating the section of the Municipal Code will be fined by not more than \$1000 or by imprisonment in the County Jail for a period of not more than six months or by both fine and imprisonment.

ARGUMENT IN FAVOR OF PROPOSITION D

KEEP OUR BEACHES SAFE AND CLEAN: VOTE "YES" ON "D"

San Diego used to be the only major city in Southern California that permitted alcohol on the beach. Drunk and disorderly conduct had become commonplace year-round on city beaches.

This culminated in the 2007 Labor Day riot in Pacific Beach that required 70 police in riot gear to break up a mob of hundreds of drunks.

Earlier this year, an ordinance making our beaches alcohol-free began for a one year trial period.

Lifeguards, police officers and families agree: **The change is like night and day.**

- San Diego families with small children have returned to the beach, no longer afraid their day will be spoiled by out-of-control drunks.
- Lifeguards, firefighters and paramedics confirm it has created a safer environment, allowing us to focus on saving lives and keeping beachgoers safe.
- Police officers confirm a reduction in beach area crime, freeing-up resources to better serve the City's neighborhoods.
- The sand is no longer littered with piles of trash.
- Senior citizens can safely enjoy an oceanfront walk.

Contrary to claims by liquor store owners who oppose attempts to solve this problem, safe and clean beaches have helped beach area businesses.

San Diego has now joined other major beach cities in offering world-class safe, clean and alcohol-free beaches.

A "NO" vote on "D" takes us back and would once again make San Diego the only major city in Southern California permitting booze on the sand. That would again open the floodgates to drinking-related crimes and public safety problems.

San Diegans have a right to safe and clean beaches. Vote "YES" on "D".

www.SafeBeaches.org

TRACY JARMAN
San Diego Fire Chief

BILL NEMEC
President, San Diego Police Officers Association

RANDY STRUNK
Business Owner,
Surf Shop and Surf School

JULIE KLEIN
Beach Area Small Business Owner and Parent

KEN HEWITT
San Diego Lifeguard Chief

ARGUMENT AGAINST PROPOSITION D

The government that governs least . . . governs best!

But in San Diego a small group of wealthy, beach-property owners want to take away your right to enjoy your beaches. **Taking away your rights and freedoms** is easier than punishing the troublemakers, but it is **the wrong solution**.

Over 20 million people visit San Diego beaches every year. Here are the facts:

- **99.9999 % of beach users DO NOT cause any problems;**
- San Diego beaches are routinely listed in national publications as the best vacation destination for families and singles;
- Over 30 laws are in place to punish the troublemakers.

It is **already illegal** to:

- drink underage;
- **be drunk in public;**
- fight; or
- **destroy property.**

Taking away the rights of responsible citizens is NOT a solution.

Preserving your rights does NOT have to be all or nothing. **Some other solutions** besides a PERMANENT alcohol ban include:

- Triple Fines for alcohol related offenses;
- **"Holiday" and "Overnight" alcohol bans ONLY;**
- Zero Tolerance police enforcement.

These policies **punish those who cause the problem**, not the responsible citizens of San Diego!

Proponents of the ban will say anything to get you to believe that the beach is better with a ban. Don't believe their hype! Here are the **facts about the trial ban**:

- **No decrease in crime** at the beach. In fact, **DUI's are UP 40%** and crime is UP in the surrounding neighborhoods.
- Beach attendance has decreased dramatically. That means our city has less money!
- Time and money spent by police has been the same with, or without, an alcohol ban.

Don't let a special interest minority scare you into voting away your rights.

More punishment for troublemakers, **overnight and holiday bans only**, and enforcing our existing laws are the right solutions for San Diego! **Vote No On D!**

ROGER HEDGECK

JIM MADAFFER
PRESIDENT PRO-TEM
San Diego City Council

GEORGE PLESCIA
ASSEMBLYMAN 75TH DISTRICT
California State Legislature

DAVID J. GERSZ
PRESIDENT
San Diego County Young Democrats

MICHAEL BENOIT
CHAIRMAN
San Diego County Libertarian Party

PROPOSED ORDINANCE

BE IT ORDAINED by the People of the City of San Diego that Chapter 5, Article 6, Division 0 of the San Diego Municipal Code is hereby amended, by amending section 56.54 to read as follows:

§ 56.54 Alcoholic Beverage Consumption Prohibited in Certain Areas

- (a) Definitions. For purposes of sections 56.54, 56.55, and 56.56, the following terms are defined as follows:

"*Alcoholic beverage*" has the same meaning as that set forth in California Business and Professions Code section 23004.

"*Beach*" means the sand or land area bordering the water of an ocean or bay.

"*Public park*" means any property designated, dedicated or developed by or on behalf of the City of San Diego for park or open space use.

"*Seawall*" means any wall between the beach and the boardwalk.

"*Sidewalk cafe*" has the same meaning as that set forth in San Diego Municipal Code section 141.0621.

- (b)-(d) [No change]

- (e) Section 56.54 does not prohibit:

(1) any person from consuming *alcoholic beverages* within the defined boundaries of a *sidewalk cafe* located on the public right-of-way, or on property leased from the City.

(2) any business from lawfully selling or dispensing *alcoholic beverages* in accordance with the requirements of local and state law.

- (f) Notwithstanding any other provision of section 56.54 and its appendices, and except as provided in section 56.54(g), it is unlawful for any person to consume any alcoholic beverage at any time, upon all public beaches, including any sidewalks, boardwalks, alleys, plazas, piers, jetties, on or against seawalls, upon public rights-of-way at any beach or coastal bluff, and all coastal access, view point and bluff rights-of-way, and including the adjacent coastal public parks and areas listed below:

Calumet Park

Charlotte Park

Hermosa Park

Hermosa Terrace Park

Kellogg Park, including the boardwalk, seawall and La Jolla Shores Beach

La Strand Park

Marine Street Beach, including the beach, bluffs, stairs and adjacent public rights of way between the northern property line of 274 Coast Boulevard and the westerly extension of the northern side of Westbourne Street

Mission Bay Park, including all land areas of Mission Bay Park, including Bayside Walk, Ocean Beach Athletic Area (Robb Field) and Dusty Rhodes Park, including the parking lots, Santa Clara Point, Bob McEvoy Youth Fields (Mission Bay/Pacific Beach Youth Fields), Fiesta Island, Famosa Slough and Channel, and Fanuel Street Park

Mission Beach Park, including the Belmont Park public areas and parking lots, including the boardwalk, seawall, and the beach

PROPOSED ORDINANCE (Continued)

Nicholson's Point Park

Ocean Beach Park, including the boardwalk, seawall, jetty, and the beach

Ocean Boulevard Park (Pacific Beach Park), including the boardwalk, seawall, and the beach

Palisades Park North (undeveloped)

Palisades Park South (Law Street)

Scripps Park

South Mission Beach Park, including the boardwalk, seawall, and the beach

Sunset Cliffs Natural Park

Torrey Pines City Park

Tourmaline Surfing Park

Windansea Park

All parking lots in Mission Bay Park

All parking lots on the Pacific Ocean between the southern boundary of Sunset Cliffs Park and the southern boundary of Torrey Pines State Park

The Peninsula of land known as "The Clam," including all public areas accessible to pedestrians west of Coast Walk and the La Jolla sea caves, and north of the public parking lots adjacent to 1325 Coast Boulevard

Crystal Pier and Ocean Beach Pier

(g) Section 56.54(f) shall not apply:

- (1) to Mission Bay Golf Course and Torrey Pines Golf Course;
- (2) to locations for which the City Manager or designee has issued a special event permit;
- (3) if otherwise permitted under the terms of a lease agreement with the City of San Diego; and
- (4) if otherwise permitted by section 56.54(e).

Appendices 56.54A-C [No change]

BE IT FURTHER ORDAINED, that these amendments will be effective as of January 15, 2009.